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C O N F I D E N T I A L HARARE 000334

SIPDIS

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LONDON FOR C. GURNEY
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E.O. 12958: DECL: 12/31/2014

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SUBJECT: TSVANGIRAI TREASON TRIAL NEARS COMPLETION

REF: A. HARARE 124 AND PREVIOUS

[1](#)B. FEB 23 UNCLASS EMAIL FROM BESMER TO M. RAYNOR

Classified By: Political Officer Audu Besmer for reasons 1.5 b/d

[1](#)1. (C) SUMMARY: On February 24, the State concluded its case in the treason trial of opposition leader Morgan Tsvangirai. The Defense was expected to complete its concluding arguments on February 26, but we would not expect a decision from the judge for some time. END SUMMARY.

[1](#)2. (C) On February 24, the prosecution entered two new documents into evidence. The first document was a response from the UK to a request for assistance from the Attorney General's Office in securing the testimony of Rupert Johnson. A diplomat here said that the British Home Office had responded to the request (of months ago) with follow-up questions on whether testimony could be taken in the UK, or would Rupert Johnson have to travel to Zimbabwe. She said the Home Office also responded that it could not give assistance in a death penalty case--all part of a standard response to such a query. The diplomat said she thought the Attorney General's Office had not been very aggressive in pursuing Johnson's testimony as there was no response to the follow-up questions. Other legal observers have noted that is unclear which side would benefit from Johnson taking the stand.

[1](#)3. (SBU) The second document the prosecution entered was a letter from Ari Ben Menashe concerning discrepancies that may have arisen between his testimony in the treason trial and a submission by Dickens & Madson made recently to a Montreal court. Legal observers noted that the letter might not carry great weight with the Court, since Menashe was not here to be cross-examined on its contents.

[1](#)4. (U) Acting Attorney General Bharat Patel proceeded to sum up the State's case by going over the testimony of each of the state witnesses and also the audio and video evidence. He said there was a case against Tsvangirai, and that the testimony of Ari Ben-Menashe was credible.

[1](#)5. (U) The defense started its concluding arguments on the afternoon of February 24 and continued on February 25. In its 75-page submission, the defense argued that there was no case against Tsvangirai. Ben-Menashe was not a credible witness and his testimony could not be relied on. Defense lawyer Innocent Chagonda said he expected they would complete their arguments by the afternoon of February 25.

[1](#)6. (C) COMMENT: The trial has dragged on since February 2003, and the State's ongoing strategy has been to prolong the proceedings as much as possible. After the defense concludes its arguments, The case will be in Judge Garwe's hands. Although it is possible he could render a decision in a matter of weeks, it is more likely he will wait for months or even a year or more to make an announcement. Delay preserves a ruling party bargaining chip--dismissal of the case--in any interparty talks. Observers have opined that the State would have a difficult time convicting Tsvangirai on such flimsy evidence, and that it would not want a conviction for fear of a public backlash. We, however, could see a conviction as possible, given the politicized nature of justice here and Mugabe's efforts to de-legitimize the MDC and Tsvangirai in particular.
SULLIVAN